



VIRGINIA BUILDING AND FIRE CODE RELATED FAQs

Outdoor Dining: EO 61 & Phase I Limited Reopening

This document has been developed by the Division of Building and Fire Regulations, to assist Virginia Department of Health inspectors, interested local building departments and other interested stakeholders, by providing unofficial guidance (staff opinions) in applying the Executive Order Number Sixty-One (2020) guidelines related to outdoor dining areas. The answers provided in this document include informal staff opinions and are not official language or regulatory requirements. The goal of providing this guidance is assist communities with reopening safely, in compliance with EO 61 and Virginia's building and fire codes.

Restaurants and Beverage Services

Are restaurants permitted to open for dine-in customers?

Yes, however, they may only do so in outdoor spaces and they must adhere to additional requirements for outdoor service, which can be found [here](#).

Do enclosed decks with removable windows, partially enclosed outdoor seating areas, rooftop bars, and other similar areas need to meet the requirements of the Executive Order?

If an area is partially enclosed it likely does not meet the EO intent of "outdoor space". Indoor seating with roll up or garage doors does not qualify as outdoor dining under the EO. Bars (even outdoor bars) must remain closed, but an outdoor bar area may be used for seating, as long as the seating complies with the EO. The local building department and Virginia Department of Health may be able to provide additional guidance in evaluating dining areas for compliance with the EO.

What is the occupancy limit for outdoor dining service during Phase I?

The EO requires occupancy of outdoor dining spaces be limited to no more than 50% of the lowest occupancy load on the certificate of occupancy, while maintaining a minimum of six feet of physical distancing between all individuals as much as possible.

Note: In order to meet the physical distancing requirements and maximum table/party limits, the maximum number of patrons that are able to be seated in an outdoor area might be lower than reduced (50%) occupant load.

Should the occupant load be posted for outdoor dining service?

Once the reduced occupant limit is determined for an outdoor dining area, we recommend posting the reduced occupancy limit, where it can easily be seen by anyone entering the facility.

How do I determine my occupancy limit if I do not have a certificate of occupancy that indicates the existing occupant load of my outdoor dining area?

Contact your local building department for assistance with determining occupancy limits for existing outdoor dining spaces.

Note: Under the current building code, the occupant load for dining areas with tables/chairs is one person for every 15 square feet. A 50% reduction would be one person for every 30 square feet.

Are there restrictions on seating arrangements for outdoor dining service?

The EO states that no more than 10 patrons may be seated as a party. Tables at which dining parties are seated must be positioned six feet apart.

Are restroom facilities still required to be provided?

Yes. Business should develop a policy for required restroom facilities that incorporates the Executive Order's requirements for distancing, cleaning, and disinfecting.

Are tents permitted for outdoor dining service?

Yes. Tents without sides and that do not recirculate air through an HVAC system meet the intent of the Executive Order.

Do tents that do not require a permit need to meet the requirements of the Executive Order?

Yes. Tents under 900 square feet or tents with fewer than 50 occupants, although they do not require a permit, are required to meet the provisions of the building and fire codes, as well as the requirements of the Executive Order.

Note: According to the building and fire code, tents erected less than 12 feet apart are considered one tent.

Are tents permitted to have their sides enclosed during inclement weather?

No. Any business that cannot adhere to the requirements of the Executive Order must close.

Additional Information

[Executive Order Number Sixty-One \(2020\)](#)

[Forward Virginia: Phase 1 Guidelines and Requirements](#)

Examples of Local Best Practices

[Henrico County Process for Temporary Outdoor Dining](#)

[Chesterfield County Temporary Outdoor Dining Area Application](#)

[Chesterfield Economic Development & Chamber Guidance](#)

[Stafford County Temporary Outdoor Seating Application](#)

[Town of Blacksburg Outdoor Dining Assistance](#)